Supreme Court, U. S.
FILED
DEC 29 1978
MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE

Supreme Court of the United States

RECORD NO. 78-479

STANLEY D. EDMONDS,
Petitioner,

v.

COMPAGNIE GENERALE
TRANSATLANTIQUE,
Respondent.

On Writ of Certiorari to the United States Court
of Appeals for the Fourth Circuit

PETITION FOR CERTIORARI FILED
SEPTEMBER 11, 1978

CERTIORARI GRANTED NOVEMBER 6, 1978

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[The Lower Court Opinions are attached to the Petition for Certiorari]

EXCERPTS FROM JUDGE MAC KENZIE'S CHARGE TO THE JURY on December 17, 1975.

Page 9, Line 10 through page 17, of Trial Transcript.

Now the shipowner is liable for the negligence which proximately contributed to the plaintiff's injury, although the plaintiff's fellow employees may also be concurrently negligent. If th shipowner defendant knew of a condition dangerous to longshoremen, and such condition was not known to the plaintiff, or to his fellow employees, or readily apparent to one exercising ordinary care, then the shipowner owes the longshoremen the duty to use reasonable care to notify the longshoremen and the stevedoring company of such condition in order to prevent injury. But the defendant shipowner was under no duty to warn the plaintiff of a defect or danger which was known to the plaintiff, or which was as well known to him as to

the defendant, or which was obvious, or would have been observed by him in the exercise of ordinary care.

The defendant shipowner has the duty to exercise ordinary care to place the ship and equipment in such condition that an experienced stevedore would be able, through the exercise of ordinary care, to discharge the cargo in a workmanlike manner and with reasonable safety to persons and property.

The defendant, French Lines, is not responsible for any condition or conditions created by the manner or method in which the stevedore Nacirema Company, Incorporated, or its employees, including the plaintiff, selected to perform that work. Therefore, if you believe from the evidence that the plaintiff's accident was caused by the manner in which the plaintiff and his fellow employees performed their duties

in discharging the trailer, and if this was the sole proximate cause of the accident, rather than any negligence of the shipowner, then in such an event there would be no liability to be imposed upon the shipowner and you would find your verdict for the defendant.

The plaintiff's employee, Nacirema Operating Company, Inc., was an independent contractor hired as an expert to discharge the defendant's vessel. The defendant, French Lines, is not responsible for the negligent acts of the independent contractor's employees. And, therefore, if you find from a preponderance of the evidence that the accident sustained by the plaintiff came about as a result of the negligent act of the employees of the stevedore, Nacirema Operating Company, and not as a result of any negligence on the part of the shipowner, then the plaintiff can not

recover and you should find your verdict for the defendant.

If you conclude that the accident sustained by the plaintiff was as a result of the manner in which the plaintiff and his fellow workers performed their duties in discharging the trailer, and that this was the sole proximate cause of the accident, rather than any negligence of the French Lines shipowner, then in such event there would be no liability to be imposed upon the French Lines and you would return your verdict in favor of the defendant. The plaintiff, Stanley Edmonds, was himself required by law to use ordinary and reasonable care to look out for his own safety. As an experienced worker he had the duty and responsibility to use due care with regard to existing conditions, so as to avoid injury to himself and to others if he could reasonably do

so. If he failed to use such ordinary and reasonable care, and if such failure was the sole, only proximate cause of his accident and injuries, then, of course, there would be no recovery and your verdict would be for the defendant.

The plaintiff, however, Stanley Edmonds, does not assume the risk of employment in the performance of his services aboard the vessel. If you find that the defendant shipowner was negligent, and if you thereafter find that such negligence was in fact a proximate cause of the accident and of the injuries complained of, you must then further determine whether or not the plaintiff Edmonds was himself guilty of any negligence whatsoever which was also a contributing proximate cause of the accident.

And you will find on the form, an extraordinary form verdict which I will

send with you and will explain to you in a minute that that is a matter which may be connoted thereon.

Under the terms of this special verdict form, if you find that any contributory negligence has been shown you must state it in terms of a percentage, and I will talk to you about that.

Unlike other cases that you may have had, ladies and gentlemen, you are going to -- I am going to submit this case to you on what is called special interrogatories to the jury. It says: "Issues to the Jury," and there are contained seven questions. The questions, I think, are self explanatory, but I will run over one or two of them so you will see how your deliberations would go.

Question number one reads:

"1. Did any negligence of the shipowner, Compagnie Generale Transatlantique

cause or contribute to the plaintiff's injuries."

And you are to record your answer, yes or no. If the answer to that first question was no, then you would need not answer any of the other questions on the form because under those circumstances French Lines would not be responsible.

But if you answered that there was negligence on the French Lines, and the answer was yes, you would go to the second question which reads:

"2. If the answer to the first issue is yes, to what extent, expressed percentagewise, was the vessel owner negligent."

Bearing in mind that the total negligence would be 100 percent, and that in answering the questions that then arise they would total 100 percent when you got through.

The third question is:

"3. Did any negligence of the stevedore, Nacirema Operating Company, Inc., cause or contribute to the plaintiff's injuries."

Your answer would be yes or no. If the answer to that question was yes, you would have to express to what extent, expressed percentagewise, was the stevedoring company negligent.

"Did any negligence of the plaintiff, Stanley Edmonds, cause or contribute to his own injuries."

You would answer that, yes or no. That is a contributory negligence question.

The next one is, "If the answer to the fifth issue is yes, to what extent, expressed percentagewise, the plaintiff was negligent."

And the final question is:

"7. At what sum do you assess plaintiff's monetary damages attributable

to his accident onboard the SS ATLANTIC COGNAC? This figure should be arrived at irrespective of your findings of negligence, if any, on the part of the stevedoring company, the vessel owner, or the plaintiff himself."

In other words, the answer to number seven is a gross figure to which at the proper time, under the law, I would apply the percentage as you have found them, if any you find.

Page 25, Line 1 through Page 27, Line 17, of Trial Transcript.

(The jury returned to the court-room at 11:07 a.m.)

THE CLERK: Members of the Jury, have you agreed upon a verdict?

FOREMAN DUKE: Yes.

THE CLERK: May we have it,please?

In the matter of Stanley Edmonds versus the French Lines, Civil Action 74-339-N, Issues to the Jury.

Did any negligence of the shipowner, Compagnie Generale Transatlantique, cause or contribute to the plaintiff's injuries?

Answer, yes.

If the answer to this first issue is yes, to what extent, expressed percentagewise, was the vessel owner negligent?

Answer, 20 percent.

3. Did any negligence of the stevedore, Nacirema Operating Company, Inc., cause or contribute to the plaintiff's injuries?

Answer, yes.

If the answer to the third issue is yes, to what extent, expressed percentagewise, was the stevedoring company negligent.

Answer, 70 percent.

5. Did any negligence of the plaintiff, Stanley D. Edmonds, cause or contribute to his own injuries.

Answer, yes.

6. If the answer to the fifth issue is yes, to what extent, expressed percentagewise, was the plaintiff negligent.

Answer, 10 percent.

7. At what sum do you assess plaintiff's monetary damages attributable to his accident on board the SS ATLANTIC COGNAC? This figure should be arrived at irrespective of your findings of negligence, if any, on the part of the stevedoring company, the vessel owner, or the plaintiff himself.

Answer, $100,00.

Signed William T. Duke, Foreman.